MONTANA LEGISLATIVE HISTORY

Chapter 75 1995

Bill H _____ S 104 Original bill & history X C

H. Committee on HIGHWAYS & TRANSP.			S. Committee on HIGHWAYS & TRANSPORTATION		
Hearing Date(s) 2/6	X	C	Hearing Date(s) 1/19		C
& EXEC ACTION _____		C	EXEC ACTION 1/26	X	C
_____		C	_____		C
_____		C	_____		C
Date Out _____		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

1/19	2ND READING CONCURRED	98	2
1/19	3RD READING CONCURRED	95	2
	RETURNED TO SENATE		
1/20	SIGNED BY PRESIDENT		
1/20	SIGNED BY SPEAKER		
1/20	TRANSMITTED TO GOVERNOR		
1/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 2		
	EFFECTIVE DATE: 01/20/95		

SB 101 INTRODUCED BY L. NELSON, ET AL.

ALLOW TRUSTEES OF A SCHOOL DISTRICT TO CREATE A TECHNOLOGY ACQUISITION FUND FOR ACQUIRING AND MAINTAINING TECHNOLOGICAL EQUIPMENT AND FOR TECHNICAL TRAINING FOR DISTRICT PERSONNEL

1/12	INTRODUCED
1/12	FIRST READING
1/12	REFERRED TO EDUCATION & CULTURAL RESOURCES
1/13	FISCAL NOTE REQUESTED
1/19	FISCAL NOTE RECEIVED
1/20	FISCAL NOTE PRINTED
1/27	HEARING
1/31	TABLED IN COMMITTEE
2/23	MISSED TRANSMITTAL DEADLINE FOR 45TH DAY
	DIED IN COMMITTEE

SB 102 INTRODUCED BY ECK, ET AL.

SB 102 WAS WITHDRAWN

BY REQUEST OF THE JOINT OVERSIGHT COMMITTEE ON CHILDREN AND FAMILIES

1/12	INTRODUCED
1/12	FIRST READING
1/12	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
1/18	BILL WITHDRAWN
	(APPROPRIATION BILL MUST ORIGINATE IN HOUSE)

SB 103 INTRODUCED BY HARGROVE

REVISE DEFINITION OF "FEDERAL-AID SYSTEMS" TO CONFORM TO CURRENT LAW

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

1/12	INTRODUCED		
1/12	FIRST READING		
1/12	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/13	FISCAL NOTE REQUESTED		
1/17	FISCAL NOTE RECEIVED		
1/17	FISCAL NOTE PRINTED		
1/31	HEARING		
2/01	COMMITTEE REPORT—BILL PASSED		
2/02	2ND READING PASSED	50	0
2/03	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/06	FIRST READING		
2/06	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/01	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED		
3/11	2ND READING CONCURRED	95	3
3/14	3RD READING CONCURRED	91	8

	RETURNED TO SENATE		
3/16	SIGNED BY PRESIDENT		
3/18	SIGNED BY SPEAKER		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 231		
	EFFECTIVE DATE: 10/01/95		

SB 104 INTRODUCED BY HARGROVE

CHANGE NAME OF HIGHWAY COMMISSION TO TRANSPORTATION COMMISSION

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

1/12	INTRODUCED		
1/12	FIRST READING		
1/12	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/19	HEARING		
1/27	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/28	2ND READING PASSED	45	0
1/30	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
1/31	FIRST READING		
1/31	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/06	HEARING		
2/10	COMMITTEE REPORT—BILL CONCURRED		
2/21	2ND READING CONCURRED	96	3
2/22	3RD READING CONCURRED	96	1
	RETURNED TO SENATE		
2/28	SIGNED BY PRESIDENT		
3/02	SIGNED BY SPEAKER		
3/02	TRANSMITTED TO GOVERNOR		
3/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 75		
	EFFECTIVE DATE: 07/01/95		

SB 105 INTRODUCED BY JENKINS

PROVIDE THAT AN ADMINISTRATIVE RULE OBJECTED TO BY A MAJORITY OF MEMBERS OF THE ADMINISTRATIVE CODE COMMITTEE MAY NOT BE ADOPTED UNTIL THE END OF THE 6-MONTH PERIOD DURING WHICH THE RULE MUST BE ADOPTED, UNLESS PRIOR TO THAT TIME, THE COMMITTEE MEETS AND DOES NOT MAKE THE SAME OBJECTION

1/12	INTRODUCED		
1/12	FIRST READING		
1/12	REFERRED TO STATE ADMINISTRATION		
1/13	FISCAL NOTE REQUESTED		
1/16	FISCAL NOTE RECEIVED		
1/17	FISCAL NOTE PRINTED		
1/24	HEARING		
1/26	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/27	2ND READING PASSED	31	17
1/28	3RD READING PASSED	29	18
	TRANSMITTED TO HOUSE		
1/30	FIRST READING		
1/30	REFERRED TO STATE ADMINISTRATION		
3/01	HEARING		
3/02	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/06	2ND READING CONCURRED	66	33
3/07	3RD READING CONCURRED	71	28

SENATE BILL NO. 104

INTRODUCED BY Ken Hargrove

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE NAME OF THE HIGHWAY COMMISSION TO THE TRANSPORTATION COMMISSION; CLARIFYING CERTAIN RESPONSIBILITIES AND AUTHORITY OF THE COMMISSION AND THE DEPARTMENT OF TRANSPORTATION RELATED TO RAIL AND TRANSIT PROGRAMS AND TO INTERMODAL TRANSPORTATION; CLARIFYING THE RESPONSIBILITIES AND AUTHORITY OF THE COMMISSION AND THE DEPARTMENT RELATED TO THE ALLOCATION AND ADMINISTRATION OF CERTAIN APPROPRIATED FUNDS; AMENDING SECTIONS 2-15-2502, 60-1-103, 60-2-110, 60-2-129, AND 60-3-219, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the department of transportation is required in 60-2-110 to adopt rules to administer statutory provisions that require the transportation commission to establish priorities and select and designate segments for construction and reconstruction on the national highway system, the primary highway system, the secondary highway system, the urban highway system, and state highways; to establish and determine priorities and projects for rail and transit programs; and, to the extent possible, coordinate intermodal transportation within the state. The legislature contemplates that rules promulgated under 60-2-110 address, at a minimum, the criteria and procedures to be followed in establishing priorities and selecting projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-2502, MCA, is amended to read:

"**2-15-2502. ~~Highway~~ Transportation commission.** (1) ~~The highway commission consists~~ There is a transportation commission composed of five members. One member must be a resident of and appointed from each of these districts, each composed of the counties named:

(a) District 1. Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Granite, Powell;

(b) District 2. Deer Lodge, Silver Bow, Beaverhead, Madison, Gallatin, Meagher, Broadwater,

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Jefferson, Park;

(c) District 3. Glacier, Toole, Liberty, Hill, Blaine, Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

(d) District 4. Carter, Powder River, Fallon, Custer, Rosebud, Garfield, Phillips, Valley, McCone, Prairie, Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

(e) District 5. Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Judith Basin, Fergus, Petroleum, Treasure, Wheatland, Sweet Grass.

(2) Two members may not be residents of the same district at the time of appointment or during their respective terms of office.

(3) Not more than three members may at the time of appointment or during their respective terms be members of the same political party.

(4) An elective state official or state officer, during the term of office to which elected or appointed, or a state employee may not be a member of the commission.

(5) A resolution, motion, or other decision of the commission may not be adopted or passed without the favorable vote of at least three members.

(6) The commission is allocated to the department of transportation for administrative purposes only as prescribed in 2-15-121.

(7) The commission is designated as a quasi-judicial board for purposes of 2-15-124; however, the provision of 2-15-124(1) that at least one member of a quasi-judicial board be an attorney does not apply to the commission.

(8) The commission may adopt rules necessary for its government.

(9) The ~~administrator of the highway division~~ director of transportation or the director's designee shall act as liaison between the ~~highway~~ commission and the department ~~of transportation~~."

Section 2. Section 60-1-103, MCA, is amended to read:

"**60-1-103. General definitions.** Subject to additional definitions contained in this title ~~which~~ that are applicable to specific chapters or sections and unless the context otherwise requires, terms are defined as follows:

(1) "Abandonment" means cessation of use of right-of-way or an ~~(~~easement~~)~~ or cessation of activity ~~thereon~~ on the right-of-way or easement with no intention to reclaim or use again. ~~(~~ Abandonment

is sometimes called vacation~~)~~.

(2) "Bridge" means any bridge constructed by the department, together with all appurtenances, additions, alterations, improvements, and replacements~~,~~ and the approaches ~~thereto~~ to the bridge, lands used ~~therefor~~ in connection with the bridge, and improvements ~~thereon~~ incidental or integral to the bridge.

(3) "Commission" means the ~~highway~~ transportation commission provided for in 2-15-2502.

(4) "Condemnation" means taking by exercise of the right of eminent domain.

(5) "Construction" means supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, mapping, and costs of right-of-way or other interests in land and elimination of hazards at railway grade crossings.

(6) "Control of access" means the condition in which the right of owners or occupants of abutting land or other persons to access, light, air, or view in connection with a highway is fully or partially controlled by public authority.

(7) "County road" means any public highway opened, established, constructed, maintained, abandoned, or discontinued by a county in accordance with Title 7, chapter 14.

(8) "Department" means the department of transportation provided for in Title 2, chapter 15, part 25.

(9) "Director" means the director of transportation, a position provided for in 2-15-2501.

(10) "Easement" means a right acquired by public authority to use or control property for a designated purpose.

(11) "Eminent domain" means the right of the state to take private property for public use.

(12) "Federal-aid highway" means ~~any~~ a public highway ~~which~~ that is a portion of any of the federal-aid highway systems.

(13) "Federal-aid highway systems" means all of the systems named ~~hereafter~~ as part of the systems and their urban extensions.

(14) "Federal-aid interstate system" means that system of public highways selected by the commission in cooperation with adjoining states, subject to the approval of the secretary of commerce, as provided in Title 23, U.S.C.

(15) "Federal-aid primary system" means that system of connected public highways designated by the commission, subject to the approval of the secretary of commerce, as provided in Title 23, U.S.C.

(16) "Federal-aid secondary system" means that system of public highways not in the federal-aid

primary or interstate systems selected by the commission in cooperation with the boards of county commissioners, subject to the approval of the secretary of commerce, as provided in Title 23, U.S.C.

(17) "Fee simple" means an absolute estate or ownership in property, including unlimited power of alienation.

(18) "Highway" includes rights-of-way or other interests in land, embankments, retaining walls, culverts, sluices, drainage structures, bridges, railroad-highway crossings, tunnels, signs, guardrails, and protective structures.

(19) "Highway", "road", and "street", whether ~~they~~ the terms appear together or separately or are preceded by the adjective "public", are general terms denoting a public way for purposes of vehicular travel and include the entire area within the right-of-way.

(20) "Highway authority" means the entity at any level of government authorized by law to construct and maintain highways.

(21) "Maintenance" means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and ~~such~~ traffic-control devices ~~as~~ that are necessary for ~~its~~ the safe and efficient ~~utilization~~ use of the highway.

(22) "Public highways" means all streets, roads, highways, bridges, and related structures ~~which have been or shall be~~:

(a) built and maintained with appropriated funds of the United States or the state or any political subdivision ~~thereof~~ of the state;

(b) dedicated to public use;

(c) acquired by eminent domain; or

(d) acquired by adverse use by the public, jurisdiction having been assumed by the state or any political subdivision ~~thereof~~ of the state.

(23) "Right-of-way" is a general term denoting land, property, or any interest ~~therein~~ in land or property, usually in a strip, acquired for or devoted to highway purposes.

(24) "State highway" means any public highway planned, laid out, altered, constructed, reconstructed, improved, repaired, maintained, or abandoned by the department."

Section 3. Section 60-2-110, MCA, is amended to read:

"**60-2-110. Setting priorities and selecting projects.** (1) The commission shall establish priorities

and select and designate segments for construction and reconstruction on the national highway system, the primary highway system, the secondary highway system, the urban highway system, and state highways.

(2) The commission shall consult with the board of county commissioners of the county in which a highway is located when establishing priorities and when selecting and designating segments on the secondary highway system for construction and reconstruction.

(3) The commission shall consult with the appropriate local government authorities when establishing priorities and selecting and designating segments on the urban highway system for construction and reconstruction.

(4) The commission shall use information gathered or discovered by and documents prepared by the department, and department officials and employees shall provide assistance and advice.

(5) The commission shall establish and determine priorities and projects for rail and transit programs and, to the extent possible, coordinate intermodal transportation within the state.

(6) In carrying out the requirements of this section, the department shall:

(a) make recommendations to the commission; and

(b) establish, by rule, the requirements and procedures for administering this section."

Section 4. Section 60-2-129, MCA, is amended to read:

"**60-2-129. Allocation of funds.** (1) The commission may allocate federal-aid highway funds for projects or programs in which all or a portion of the work is on highways that are not located on the highway systems defined in 60-2-125. The allocations must be made without regard to the financial district in which the project or program is located.

(2) Within the programs under its jurisdiction, the commission shall allocate all federal transit administration funds, freight assistance funds, or any funds or grants available by legislative appropriation for the study, design, construction, repair, or improvement of rail or transit intermodal transportation systems.

(3) The commission may authorize the transfer of funds between qualified programs, including highway and transit programs.

(4) The commission may delegate the functions and responsibilities under this section to the department."

Section 5. Section 60-3-219, MCA, is amended to read:

"**60-3-219. Allocation of funds -- apportionment.** The federal-aid highway funds allocated to the primary highway system for construction purposes must be apportioned among the five financial districts, corresponding to and congruent with the ~~highway~~ transportation commission districts established in 2-15-2502."

NEW SECTION. **Section 6. Codification instruction.** (1) The code commissioner is instructed to change any reference to the highway commission to the transportation commission in legislation enacted by the 54th legislature.

(2) The code commissioner is instructed to change to the transportation commission each reference to the highway commission in the Montana Code Annotated.

NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1995.

-END-

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN LARRY TVEIT**, on January 19, 1995, at 1:00 p.m. in Room 410

ROLL CALL

Members Present:
Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Carla Turk, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 51
SB 96
SB 104

Executive Action: SB 47
SB 51
SB 68

CHAIRMAN TVEIT announced that sponsor **SENATOR TERRY KLAMPE** had recently notified him there would be no hearing on SB 51.

HEARING ON SB 96

Opening Statement by Sponsor:

SENATOR MIKE FOSTER, Senate District 20, Townsend, stated that he was primarily appearing before the Committee on behalf of the

had lower speed limits, and said it was amazing this very dangerous town couldn't also have a reduced speed limit. He said he thought the Bill would allow the people to have a voice in getting that speed limit reduced to where personal danger wasn't so great. He said that all he was asking was that the people of Neihart be listened to because the people themselves would tell the story best.

ACTING CHAIRMAN SWYSGOOD ANNOUNCED THE HEARING ON SB 96 AS CLOSED.

HEARING ON SB 104

Opening Statement by Sponsor:

SENATOR DON HARGROVE, SD 16, Belgrade, said he had the pleasure of bringing SB 104 which had been requested by the Montana Department of Transportation (MDT). He said it was basically a housecleaning bill which he didn't believe would take you very long. He said that when the Intermodal Surface Transportation Efficiency Act (ISTEA) came into affect in 1991, it made some changes which basically incorporated all surface modes of transportation under the Department. He said the Department had been busy cleaning all those things up for the last three years now. He said one thing which had been omitted was the Commission; and they were still called the Highway Commission. He said the purpose of SB 104 was to change the name of the Highway Commission to the Transportation Commission. He said the Bill established a few new responsibilities for the Commission and provided for some authority to transfer funds. He said the those funds were now administered by the Department. He stated there was a little clean up language in the Bill, but was basically to provide for the Commission by bringing it under the ISTEA Act. He said he would leave further explanation to others who were present to testify and reserved the right to close.

Proponents' Testimony:

Pat Saindon, Administrator, Transportation Planning Division, Department Of Transportation, reiterated that when the Department Of Transportation was originally established in 1991, it was intended that the Department operate as a modally independent department. She explained that each particular transportation mode sort of operated independently. She said that after the Department was formed, ISTEA required that departments of transportation be intermodally operated. She reported that during the past three years the Department had been working very hard, when determining transportation issues, to look at all transportation modes. She said SB 104 was intended to change the name of the Highway Commission to the Transportation Commission. By so doing, it would also give them the authority to administer

rail funds and transit funds. She said there were transit funds which came to the Department from the Federal Transit Administration, and there was a limited amount of rail funds which also came to the Department. She stated there was also a small amount of money, about $600,000, in the MDT for use as a loan program for short-line operations for the purpose of doing some small basic repairs.

Ms. Saindon said a couple of people had expressed concerned about particular language in the Bill which said the Commission may authorize the transfer of funds between qualified programs, including highway and transit programs. She stated a desire to explain that language, and said it was not talking about diverting highway funds to transit nor was it talking about diverting transit funds to highways. He said that what the language was doing was authorizing the State to have the same authority as was available through ISTEA which said that in certain situations you could move those moneys. She gave an example of where those moneys were currently being moved. She said there was a portion of ISTEA, called Congestion Mitigation Air Quality (CMAQ), which was money that went to areas that had high CO2. She said that in the State of Montana that pertained to Missoula. She stated CMAQ dollars could be used to come up with projects to reduce CO2. She explained that the City of Missoula, and the County of Missoula had agreed they wanted to utilize some of those CMAQ dollars to purchase low emissions busses for their transit service to reduce the air quality conditions. She said federal law currently allowed such a use. She stated that the Department was currently handling these functions because the Department had the authority. She said the Department was asking to give the Commission the ultimate authority in this language. She said that rather than having staff people make those decisions, it would give the Commission the absolute authority on being able to transfer those CMAQ dollars to the transit program to purchase low emissions transit vehicles. She said it was not the intent of SB 104 to take highway dollars and move them into the transit program.

Ms. Saindon said the Commission had just currently gone through a state-wide transportation plan which involved all modes of transportation. She said the plan required the Commission, operating with the Department, to look at what the ramifications of everything involved with any particular project that it had regarding a transportation issue in the State of Montana. She expressed the hope that SB 104 would accomplish that goal. She said that if there were any further questions she would be happy to answer them.

Ben Havdahl, Montana Motor Carriers Association, said they stood as a proponent of the Bill and to what the overall thrust of the Bill would do as far as changing the Highway Commission to a Transportation Commission. He said there had been testimony relating to the allocation of funds. He said that as a major highway user, a trucking industry concern would be the use of

those funds for any kind of rail facility or non-highway use. He said the language raised a question, whether or not the language would include the kind of allocation which took funds from one area of transit and gave to another. He said that even though that may not be the present intent, at some time in the future somebody may well interpret the language to give that flexibility. He said they might suggest more clarification of the language, in Section 4, to make sure that was not accomplished.

Steve Turkiewicz, Executive Vice President for the Montana Auto Dealers Association, also a Board Member of the Montana Highway Users Federation, said they rose in support of the Bill and echoed Mr. Havdahl's comments and concerns. He said they wanted to make sure this Committee and this Legislature was very clear that funds referred to in this Section were only those funds that were allowed to be transferred in such a way, and that those Constitutionally protected funds in the Montana Constitution are not diverted without the Legislature's specific knowledge, and intent.

Carl Schweitzer, Montana Contractors Association, and President of the Montana Highway Users Federation, said they would also like to support the Bill but had the same concerns that **Mr. Havdahl** and **Mr. Turkiewicz** stated. He said he didn't know if just inserting the word "federal" or "federal funds" would solve the problem. He said they certainly didn't want to see the ability to take highway money and put it in the transit program without this Legislature making that decision.

Opponents' Testimony:

Maureen Cleary-Schwinden, representing Women Involved In Farm Economics (WIFE), said they were a grass roots organization protecting small family farms in the State, predominantly with a lot of members who are grain growers. She said that today she had to stand as an opponent to SB 104. She said their Organization's Transportation Chairwoman had called her with concerns about the Bill. She stated the desire that the Committee clearly understand that she appreciated the language on page 5, line 12, which included the rail and transit programs in the Transportation Commission. She said their concerns involved looking at the entire language in the Bill, as they had a problem with the number of times highway appeared versus the number of times railroad appeared. She said she was sure the Committee had heard numerous times that grain growers were held captive in this State by the only railroad that ships grain. She said their farm was in the far northeast corner, and they paid some of the highest shipping costs to get their grain moved. She said that many of them had probably heard about the dilemmas farmers faced when trying to move their grain across the State, specifically regarding the lack of available cars to move grain. She said that with those thoughts under consideration, she would offer

some recommendations for changing the language to include agricultural concerns. She said Section 1 contained the makeup of the Commission, and said she would appreciate the Committee's consideration of agricultural representation on the Commission. She said their Organization would appreciate that consideration. She asked them to also look at Section 3, page 4 & 5, and encouraged stronger language regarding the rail and transit programs. She said she had to stand opposed to this Bill, although she did appreciate **SENATOR HARGROVE'S** intent in writing the Bill to include rail concerns. She said they just felt that there could be some stronger language.

Questions From Committee Members and Responses:

SENATOR MOHL asked the Department how they felt about the way the Bill was written? He said he guessed he had a little bit of a problem on the wording, "Director of Transportation or the Director Designee shall act as liaison between". **Pat Saindon** said that currently that was a Highway Commission, and the person who was responsible for being the liaison between the Highway Commission and the Department was **Tom Barnard** who was the Chief Engineer of the Department. She said that with a Transportation Commission, the Director of the Department would be the liaison between the Commission and the Department, or may have a designee. **Mr. Barnard** is sort of the official designee between the Department and his staff, takes minutes of all the meetings, and keeps records for the Highway Commission. She said that under a Transportation Commission that probably would not change. She said that what they were saying was that the Director would actually have the authority to formally appoint whomever the Department wanted to do that.

SENATOR MOHL asked if this would affect the Commission, and would they need to perform in any different way than they are now? **Pat Saindon** said no it would not.

SENATOR NELSON said she had to agree with the WIFE stance, as she felt like rails have been woefully neglected when we changed from Department of Highways to Department of Transportation. She said that at one time we had an ICC specialist who looked out for agriculture interests and things like that. She said that in 1991 when it went to the Department of Transportation, she thought they we were assured that rails would get equal treatment and we really haven't seen that. She said they had felt neglected, especially up in the northeast corner of the State where rails were very important and where they were only served by a branch-line. She asked **Tom Forseth** for a reaction to some of the things that our Transportation person had to say. She said that if he thought the Commission would be able to incorporate a little bit more interest in the Department for rails. She said her support for the Bill would hinge a little bit on that. **Tom Forseth** said that of course rail was an integral part of the transportation system in Montana. He thought one of the problems that we would

have as a Transportation Commission would be trying to exert any influence on how rails operate. He said that under the Staggers Act, railroads were pretty much deregulated; so the Commission was not in a position to control what the railroads do. He said he thought her interest was probably more along the lines of the branch-line railroads and what we can do there. He said part of the problem there was that you wanted to start working with short-line rails, where would the money come from? He said there would be some powerful resistance to using highway funds. He said that within any portion of the rail, other than perhaps funds that were allocated from the federal government, there was a reality of exactly what you could or could not do. He stated he was personally involved in the transportation business himself, one of the three remaining city bus lines, and felt the Commission would certainly like to work with Amtrak, for instance. The Amtrak Board of Directors had said they were going to cut down to four days a week. He said that as a Transportation Commission, he supposed they could talk to the Board and try to influence them, but as far as anything beyond that the Commission was rather handicapped. He said that regarding what the Commission could do for rail in the transportation system, that could probably be better answered by **Pat Saindon** who had dealt with that extensively.

SENATOR NELSON said she guessed she was looking for the possibility of some clout that could be had if there was a good rail division within the State. She stated that in the case of ICC hearings, other states had representation when they rail problems but Montana had no representative. She thought that was deplorable. They were not looking to take highway moneys for rails, but stated they just wanted good representation. She stated that if someone was going to be a commissioner for the Department Of Transportation, she said they wanted to know that they would speak for us too, and that they would see that we're covered. **Tom Forseth** said that was within the realms of how it would be set up and as it was pretty technical, he asked to refer that to **Pat Saindon**.

Pat Saindon said one of the things that the Department of Transportation had gone through was the state-wide plan. She said that one of the responsibilities of the Department of Transportation was to do an extensive survey on what's going on in the State in terms of transportation, and to try to come up with a balanced plan for the next 20 years of how we're going to deal with transportation. She said they heard a lot of things about rail, particularly up in the northeast corner of the State where people were saying that they wanted to see better representation from the Department of Transportation on rail issues. She said that as a result of the state-wide plan, on that particular issue, the Department did agree to assume some additional responsibilities for rail, to become a better advocate for rail. She said there were no real dollars in terms of doing anything significant. Other than doing some minor rehabilitation of rail roads they did not have any money in that area, and said

they could not transfer any of the highway funds into doing something like that. She said the Department had agreed that we were going to look at trying to be better advocates for the rail program. She said that on the other hand, the Department had a responsibility to balance all of the modes, and as you've heard here there are highway advocates, transit advocates, rail advocates, bicycle pedestrian advocates, and a lot of environmentalists who don't want us to do anything, anywhere on any project.

SENATOR STANG said it always made him rather nervous when there was a statement of intent with the Bill which gave any department rule-making authority. He requested the Department give the Committee a list of their proposed rule changes, so they could be looked at before voting on the Bill, and asked if that could be done? **Pat Saindon** stated yes.

SENATOR TVEIT asked **Tom Forseth** if he had stated the Commission didn't want to be involved in the rail portion of transportation, while the Bill made it quite clear that "the Commission shall establish and determine priorities and projects for rail and transit programs" He further identified language on page 5, lines 23-25 which stated that within the program "the Commissioner shall allocate all federal transit administration funds, freight assistance funds, or any funds or grants available by legislative appropriation for the study, design, construction, repair, or improvement of rail and transit intermodal transportation systems". He said his point was that as a Commissioner he would be involved in the area of rail transportation and its agenda. **Tom Forseth** said that was right; he did not mean to indicate he was not a believer in rails. He said we certainly depend on rails for our bulk commodities' movements. He said one of the serious problems we had as a Highway Commission was the amount of traffic with bulk commodities that has had to go onto the highways because of the loss of short-lines. He thought what he was indicating was that there was a funding problem, perhaps even a problem of how much money could you get to preserve short-lines. He said they certainly would be involved with that, yes.

SENATOR TVEIT said he guessed money was in there too that was limited. He had been referring to the damage caused by branch-lines shutting down in different parts of the State and tremendous damage and road repair due to the large number of trucks having to move this grain. He said that as a Commissioner, he would play an important role in trying to save the highways, which was part of his job. **Tom Forseth** stated yes, if they could save some short-lines they could save the highways. He said that was especially true with some of the traffic that came out of Canada. As he understood, there had been some serious damage that way. He said it was certainly a transportation system, as indicated, but although they had been educated in the other modes of transportation, they currently

were just Highway Commissioners and said they needed to move beyond that.

ACTING CHAIRMAN SWYSGOOD said he had a real problem with page five, line 27, as it related to the language. He asked **Pat Saindon**, even though she had addressed that it was not the Department's intent, if she could come up with some language which would alleviate the fears of **Mr. Havdahl** and the others who spoke to the language? He asked if there was some way to incorporate their concerns into the Bill when executive action was done? **Ms. Saindon** stated that could be done.

Closing by Sponsor:

SENATOR HARGROVE said this was a very simple bill, and in it's simplicity he believed it did address all of the concerns of the opponents and the questions of the members of the Committee. He said the Constitution itself now protected the funds that were a real concern to a number of people. However, there may need to be reference in the Bill to make sure there are no complications. He said he believed that could be done. He said that as far as having more representation, it was is a regional board with five regions in the State with a member from each region on the Commission. He said the Bill brought the Commission into the fold under ISTEA and there should be more representation, more ability for people to be able to have their voice heard. He said the purpose, which had been stated, was to bring railroads into the Transportation Commission. He said that by virtue of the Bill, and a simple change, railroads should have a better say, as was the very necessary incorporation of all intermodal service transportation.

ACTING CHAIRMAN SWYSGOOD CLOSED THE HEARING ON SB 104, AND TURNED THE GAVEL BACK TO THE CHAIRMAN.

EXECUTIVE ACTION ON SB 51

CHAIRMAN TVEIT said **SENATOR KLAMPE** had stated he didn't want his Bill any more and wasn't going to present it. He had expressed his interest in another bill and said to do whatever the Committee wished to do with it.

Motion/Vote:

SENATOR SWYSGOOD'S MOTION TO TABLE SB 51 CARRIED UNANIMOUSLY.

MONTANA SENATE
1995 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL DATE 1-19-95

NAME	PRESENT	ABSENT	EXCUSED
MACK COLE	X		
RIC HOLDEN	X		
REINY JABS	X		
GREG JERGESON	X		
ARNIE MOHL	X		
LINDA NELSON	X		
BARRY "SPOOK" STANG	X		
CHUCK SWYSGOOD, VICE CHAIRMAN	X		
LARRY TVEIT, CHAIRMAN	X		

SEN:1995
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CS-09

DATE 1/19/95

SENATE COMMITTEE ON Highways

BILLS BEING HEARD TODAY: SB-51 SB 96 SB104

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
DIANNE W. JOHNSON	CITY OF HELENA & LEWIS + CLARK CO.	96	X	
Clayton Fiscus	1111 Main Bldg MT	51		X
Tom Barnard	Mont Dept. of Trans	96		X
PATRICIA SAINDON	MDT	104	X	
~~HANK HONEYWELL~~		~~96~~		~~X~~
Harry Lauer	Dept. of Justice HWY Safety	96		X
[illegible]	MDT			X
Maureen Cleary-Schneider	Women In Farm Eco	104		X
MARV DYE	MDT	96		X
Mike Barrett (3 c.s paper included)	CITIZENS Activists Against TAX 449-2195	96	✓	
Donalene O'Neill	Box 35 Melstone	96	✓	
J. D. "Sonny" O'Neill	Box 35 Melstone	96	✓	
THORM R FORSETH	MONTANA HIGHWAY COMMISSION	96		✓
Steve Turkiewicz	MT Highway Users Fed. MTDA	104	L	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 1/19/95

SENATE COMMITTEE ON Highways

BILLS BEING HEARD TODAY: SB 51 SB 96 SB 104

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Carl Schweitzer	Mont Contractors Assn	104	✓	
THORM R FORSTAD	MT HIGHWAY COMM	104	✓	
Ben Havdahl	MT Motor Carriers Assn	104	Amend	

VISITOR REGISTER

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REGISTER.F10

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN LARRY TVEIT**, on January 26, 1995, at 1:00 p.m.

ROLL CALL

Members Present:
Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Carla Turk, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 160, SB 49

HEARING ON SB 160

Opening Statement by Sponsor:

SENATOR LINDA NELSON, SD 49, Medicine Lake, stated that SB 160 was a simple and harmless bill which would give the Department of Transportation the flexibility to set speed limits when they were doing construction, surveying, minor repairs, etc. She explained that a few years ago she had supported SENATOR TVEIT'S bill to make the speed limit 35 mph, however, she felt there were occasions, such as crews not even working on the roads, when the Department of Transportation should have the discretion to set the limit. **SENATOR NELSON** requested a do pass recommendation from the committee.

EXECUTIVE ACTION ON SB 104

Motion: **SENATOR NELSON MOVED TO ADOPT AMENDMENTS IN EXHIBIT #5.**

Discussion: **Pat Saindon, Department of Transportation,** stated the amendments were on page 5. She referred to the hearing on SB 104 when **SENATOR STANG** had requested line 16 specify the rules that would be used to operate the Commission and that the rules be set statutorily so they had taken "by rule' out. She said there had been testimony stating concerns of the agricultural community, so the Department had added that the Commission would take all reasonable steps to insure the integrity and viability of the agricultural and rural transportation related needs. She explained that the Contractor's Association, Montana Motor Carriers and the Highway User's Organization had concerns about line 27 and that they had wanted to insert the word 'federal' so the Commission could authorize the transfer of federal funds between qualified programs which were more in line with federal regulations.

SENATOR SWYSGOOD stated he still had a problem with line 27 and the ability to transfer between qualified programs. He expressed concern that while they had eliminate the transfer of state gasoline tax dollars to programs which would include rail or highway transit programs, the federal funds which would be matched by those tax dollars, for construction, could still be transferred. **Pat Saindon** stated she was a little confused, as the federal Intermodal Surface Transportation Efficiency Act (ISTEA) regulation allowed the transfer of some federal funds between the highway and transit programs for use both ways. She stated that for example, in Missoula, Federal Congestion Mitigation Air Quality (CMAQ) dollars had been moved to the transit program and at that point they took on the characteristics of the other program. She explained that if highway dollars were transferred to transit, then they took on the requirements of the transit dollars. She contended that what happened was that, then the local community had to match those dollars with local clean dollars, the couldn't match them with federal dollars. She explained that if transit dollars were transferred to the highway side of the program then they would take on the characteristics of the highway program. she clarified that State dollars could not be used because these were statutorily set and could only be used for highway purposes.

SENATOR MOHL asked if federal highway dollars could be transferred to transit programs? **Pat Saindon** stated that the law allowed State governments the transfer of federal dollars in appropriate categories. She referred again to Missoula where the state of Montana had already transferred CMAQ dollars. She identified CMAQ dollars as those used to mitigate air quality problems and stated that the local community of Missoula chose to spend some of those 'CMAQ dollars on the purchase of fuel

efficient buses. She reported that the Montana Department of Transportation had agreed with Missoula that they could transfer those funds and put them into the purchase of buses, as opposed do doing something else which mitigated air quality problems. She said CMAQ had to be used on projects which showed that they would mitigate air quality problems and the community could prove that low emissions buses would accomplish this requirement. She stated that with the transfer of CMAQ dollars, the local transit authority had to raise the money to match those federal dollars.

SENATOR MOHL asked if the money could be transferred to rail also? **Pat Saindon** stated it could not because ISTEA funds transit and highways. She explained that the only way ISTEA monies could be used for rails would be for rail passenger and there were not enough dollars which came into Montana, to ever fund rail passenger service. She stated that AMTRAK was not included and Montana had no other rail passenger service and the monies could not be used for freight rail purposes. She explained that the Department was asking that the authority be given to the Commission to make, as opposed to the State of Montana Department of Transportation. She maintained that the Department would like the Commission to make these decisions rather than the Department staff.

SENATOR MOHL stated, now that the Commission was the Department of Transportation and would now be the Department of ALL Transportation. He questioned if the word 'transit' should be clarified.

CHAIRMAN TVEIT stated that the name would be changed to the Commission on Transportation but there would be no overlap between the Department of Transportation and the Commission.

Pat Saindon stated that the Department of Transportation combined all the modes of transportation in one department and the Highway Commission had always been separate with their only authority has been over highway projects and no authority over anything else going on in the Department. She explained that these decisions were being handled by the Department staff, but the Department would like to rename the Highway Commission the Transportation Commission and expand their duties and responsibilities to handle other transportation issues.

Vote: The motion to **ADOPT AMENDMENTS TO SB 104** passed.

Motion/Vote: **SEN. NELSON MOVED SB 104 DO PASS AS AMENDED. THE MOTION CARRIED WITH SENATOR SWYSGOOD OPPOSED. SENATOR JERGESON** voted yes on amendments and the motion on the bill as amended per proxy.

EXECUTIVE ACTION ON SB 160

Motion/Vote: **SENATOR JABS MOVED SB 160 DO PASS. THE MOTION CARRIED UNANIMOUSLY. SENATOR JERGESON** voted yes per proxy.

ADJOURNMENT

Adjournment: The meeting adjourned the meeting at 2:46 p.m.

Sen. Tveit
SENATOR LARRY TVEIT, Chairman

Carla Turk
CARLA TURK, Secretary

LJT/cmt

MONTANA SENATE
1995 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL DATE 1-26-95

NAME	PRESENT	ABSENT	EXCUSED
MACK COLE	X		
RIC HOLDEN	X		
REINY JABS	X		
GREG JERGESON	X		
ARNIE MOHL	X		
LINDA NELSON	X		
BARRY "SPOOK" STANG	X		
CHUCK SWYSGOOD, VICE CHAIRMAN	X		
LARRY TVEIT, CHAIRMAN	X		

SEN:1995
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SENATE STANDING COMMITTEE REPORT

January 27, 1995

MR. PRESIDENT:
We, your committee on Highways and Transportation having had under consideration SB 104 (first reading copy -- white), respectfully report that SB 104 be amended as follows and as so amended do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

That such amendments read:

1. Page 5, line 15.
Strike: "and"

2. Page 5, line 16.
Strike: ", by rule,"

3. Page 5, line 16.
Following: "section"
Insert: "; and
(c) take all reasonable steps to ensure the integrity and viability of agricultural and rural transportation and related needs"

4. Page 5, line 27.
Following: "of"
Insert: "federal"

-END-

Amd. Coord.
Sec. of Senate

231234SC.SRF

Amendments to Senate Bill No. 104
First Reading Copy

Requested by Senator Tveit
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
January 26, 1995

1. Page 5, line 15.
Strike: "and"

2. Page 5, line 16.
Strike: ", by rule,"

3. Page 5, line 16.
Following: "section"
Insert: "; and
(c) take all reasonable steps to ensure the integrity and viability of agricultural and rural transportation and related needs"

4. Page 5, line 27.
Following: "of"
Insert: "federal"

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN SHIELL ANDERSON**, on February 6, 1995, at 3:20 p.m.

ROLL CALL

Members Present:

Rep. Shiell Anderson, Chairman (R)
Rep. Patrick G. Galvin, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Matt Brainard (R)
Rep. Robert C. Clark (R)
Rep. Charles R. Devaney (R)
Rep. Marian W. Hanson (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Daniel W. McGee (R)
Rep. Jeanette S. McKee (R)
Rep. William M. "Bill" Ryan (D)
Rep. Dore Schwinden (D)
Rep. Roger Somerville (R)
Rep. Joe Tropila (D)

Members Excused: Rep. Linda McCulloch
Rep. Jack Wells

Members Absent: Rep. Rick Jore

Staff Present: Valencia Lane, Legislative Council
Kim Greenough, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: **SB 160**
SB 104
SB 49
SB 91

Executive Action: **SB 160 Be Concurred In**
SB 104 Be Concurred In
SB 91 Be Concurred In
SB 49 Be Concurred In

{Tape: 1; Side: A; Approx. Counter: 278; Comments: None.}

HEARING ON SB 104

Opening Statement by Sponsor:

SEN. DON HARGROVE, Senate District 16, Belgrade, stated that SB 104 would bring the commission back into the Department of Transportation. The bill would change the name from the Highways Commission to the Transportation Commission.

Proponents' Testimony:

Pat Saindon, Administrator, Transportation Planning Division, Montana Department of Transportation, stated that in 1991 when the Department of Transportation was formed it was an attempt to make the Department a mobile department. There is currently a highway commission. SB 104 would rename that commission the Transportation Commission. This would allow them to discuss matters other than just highways.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. DAN McGEE asked if the Department of Transportation is doing this work. **Pat Saindon** replied that the Commission cannot act on anything but highway matters.

REP. DAN McGEE asked if the Commission has any authority over air traffic. **Ms. Saindon** replied no, that there is already a aeronautics board.

REP. DAN McGEE asked how the aeronautics aspect would be affected. **Ms. Saindon** replied that it would not be affected.

REP. JOE BARNETT asked if the Highways Commission would be replaced. **Ms. Saindon** replied yes.

REP. JOE BARNETT asked the members of the Commission would change. **Ms. Saindon** replied no, the Commission would remain the same.

REP. ROD MARSHALL asked if they will add members. **Ms. Saindon** replied no.

REP. MATT BRAINARD asked if the current Highway Commission has authority over the railways. **Ms. Saindon** replied no, the rail program is quite small. If SB 106 does pass they will have authority over the railway.

REP. MATT BRAINARD asked if the Commission would determine where rail monies would go. **Ms. Saindon** replied yes.

REP. MATT BRAINARD asked who currently decides where rail monies go. **Ms. Saindon** replied the transportation division staff.

Closing by Sponsor:

SEN. DON HARGROVE stated that SB 106 would just change the name of the Highway Commission to the Transportation Commission. This would only apply to surface transportation.

{Tape: 1; Side: A; Approx. Counter: 518; Comments: None.}

HEARING ON SB 49

Opening Statement by Sponsor:

SEN. CHARLES SWYSGOOD, Senate District 17, Dillon, stated that SB 49 would establish a flat fee for trailers. This will fix a problem that was started with a bill last session.

Proponents' Testimony:

Dave Galt, Administrator, Motor Carriers Services Division, Montana Department of Transportation, spoke in favor of SB 49. **SEE EXHIBITS 1 and 2.**

{Tape: 1; Side: B; Approx. Counter: 045; Comments: New Side.}

Ben Havdahl, Montana Motor Carriers Association, spoke in favor of SB 49. He also said the bill last session had only a few mistakes and this was one of them.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. PAT GALVIN asked if SB 49 would affect over-weight carriers. **Dave Galt** replied no, SB 49 would only affect the light weight vehicles.

REP. MARIAN HANSON asked if the staggered registration would be mandatory. **Mr. Galt** replied yes.

REP. MARIAN HANSON asked if she purchased a new pick-up would she have to transfer her gross vehicle weight fees. **Mr. Galt** replied yes, that she would not be able to change her schedule, but she could transfer the fees.

Vote: The question was called. **A voice vote was taken. Motion CARRIED unanimously.**

EXECUTIVE ACTION ON SB 104

Motion: **REP. JOE BARNETT MOVED SB 104 BE CONCURRED IN.**

Discussion:

REP. DAN McGEE asked if this would be surface transportation, not air transportation. **REP. BOB CLARK** replied yes, that it was inter-mobile surface transportation.

CHAIRMAN SHIELL ANDERSON stated that the Montana Department of Transportation is currently making decisions on railways and other means of transportation, where the Commission is only allowed to make decisions on highways. He said that SB 104 would give the Commission authority over highways and other means of transportation.

REP. ROGER SOMERVILLE asked if the aeronautics division has its own commission. **REP. PAT GALVIN** replied yes.

REP. MATT BRAINARD asked if the Department of Transportation has authority over the railway authorities. **REP. PAT GALVIN** replied no.

REP. CHARLES DEVANEY stated that he feels the Department of Transportation does not do a lot with the rail. **REP. PAT GALVIN** stated the reason they wanted to include rail was because the state of Montana has subsidized various portions of railroad line in the past and they will do it in the future.

REP. DORE SCHWINDEN stated that this bill would help establish the priorities for transit-type programs.

Vote: The question was called. **A voice vote was taken. Motion CARRIED unanimously.**

{Tape: 2; Side: A; Approx. Counter: 238; Comments: None.}

EXECUTIVE ACTION ON SB 91

Motion: **REP. PAT GALVIN MOVED SB 91 BE CONCURRED IN.**

Discussion: None.

Vote: The question was called. **A voice vote was taken. Motion CARRIED unanimously.**

HOUSE OF REPRESENTATIVES

Highways

ROLL CALL DATE 02-06-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Shiell Anderson, Chairman	✓		
Rep. Rick Jore, Vice Chairman, Majority		✓	
Rep. Pat Galvin, Vice Chairman, Minority	✓		
Rep. Joe Barnett	✓		
Rep. Matt Brainard	✓		
Rep. Bob Clark	✓		
Rep. Charles Devaney	✓		
Rep. Marian Hanson	✓		
Rep. Don Larson	✓		
Rep. Rod Marshall	✓		
Rep. Linda McCulloch			✓
Rep. Daniel McGee	✓		
Rep. Jeanette McKee	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden	✓		
Rep. Roger Somerville	✓		
Rep. Joe Tropila	✓		
Rep. Jack Wells			✓

HOUSE STANDING COMMITTEE REPORT

February 8, 1995

Mr. Speaker: We, the committee on **Highways and Transportation** report that **Senate Bill 104** (third reading copy -- blue) **be concurred in**.

Signed: Kim McGreenough
Shiell Anderson, Chair
for Rep. Shiell Anderson

Carried by: Rep. Larson

Committee Vote:
Yes 7, No 0.

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways COMMITTEE BILL NO. SB49, SB91, SB104 & SB160

DATE 2-6-95 SPONSOR(S) Sen. Swysgood, Sen. Cole, Sen. Harglove, Sen Nels

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING		SUPPORT	OPPOSE
Dave Hall	MDT	SB49, 91	✓	
Pat Saindon	MTT	104	✓	
T Barnard	MDT	SB160	✓	
Dan Roberts	Dept of Justice	SB49	✓	
Ben Havdahl	MT Motor Carriers	SB49, SB91, SB104	✓	
Riley Johnson	NFIB	SB49	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

SENATE BILL NO. 104

INTRODUCED BY HARGROVE

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE NAME OF THE HIGHWAY COMMISSION TO THE TRANSPORTATION COMMISSION; CLARIFYING CERTAIN RESPONSIBILITIES AND AUTHORITY OF THE COMMISSION AND THE DEPARTMENT OF TRANSPORTATION RELATED TO RAIL AND TRANSIT PROGRAMS AND TO INTERMODAL TRANSPORTATION; CLARIFYING THE RESPONSIBILITIES AND AUTHORITY OF THE COMMISSION AND THE DEPARTMENT RELATED TO THE ALLOCATION AND ADMINISTRATION OF CERTAIN APPROPRIATED FUNDS; AMENDING SECTIONS 2-15-2502, 60-1-103, 60-2-110, 60-2-129, AND 60-3-219, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the department of transportation is required in 60-2-110 to adopt rules to administer statutory provisions that require the transportation commission to establish priorities and select and designate segments for construction and reconstruction on the national highway system, the primary highway system, the secondary highway system, the urban highway system, and state highways; to establish and determine priorities and projects for rail and transit programs; and, to the extent possible, coordinate intermodal transportation within the state. The legislature contemplates that rules promulgated under 60-2-110 address, at a minimum, the criteria and procedures to be followed in establishing priorities and selecting projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-2502, MCA, is amended to read:

"**2-15-2502. ~~Highway~~ Transportation commission.** (1) ~~The highway commission consists~~ There is a transportation commission composed of five members. One member must be a resident of and appointed from each of these districts, each composed of the counties named:

(a) District 1. Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Granite, Powell;

(b) District 2. Deer Lodge, Silver Bow, Beaverhead, Madison, Gallatin, Meagher, Broadwater,

Jefferson, Park;

(c) District 3. Glacier, Toole, Liberty, Hill, Blaine, Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

(d) District 4. Carter, Powder River, Fallon, Custer, Rosebud, Garfield, Phillips, Valley, McCone, Prairie, Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

(e) District 5. Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Judith Basin, Fergus, Petroleum, Treasure, Wheatland, Sweet Grass.

(2) Two members may not be residents of the same district at the time of appointment or during their respective terms of office.

(3) Not more than three members may at the time of appointment or during their respective terms be members of the same political party.

(4) An elective state official or state officer, during the term of office to which elected or appointed, or a state employee may not be a member of the commission.

(5) A resolution, motion, or other decision of the commission may not be adopted or passed without the favorable vote of at least three members.

(6) The commission is allocated to the department of transportation for administrative purposes only as prescribed in 2-15-121.

(7) The commission is designated as a quasi-judicial board for purposes of 2-15-124; however, the provision of 2-15-124(1) that at least one member of a quasi-judicial board be an attorney does not apply to the commission.

(8) The commission may adopt rules necessary for its government.

(9) The ~~administrator of the highway division~~ director of transportation or the director's designee shall act as liaison between the ~~highway~~ commission and the department ~~of transportation~~."

Section 2. Section 60-1-103, MCA, is amended to read:

"**60-1-103. General definitions**. Subject to additional definitions contained in this title ~~which~~ that are applicable to specific chapters or sections and unless the context otherwise requires, terms are defined as follows:

(1) "Abandonment" means cessation of use of right-of-way or an ~~(~~easement~~)~~ or cessation of activity ~~thereon~~ on the right-of-way or easement with no intention to reclaim or use again. ~~(~~ Abandonment

is sometimes called vacation~~)~~.

(2) "Bridge" means any bridge constructed by the department, together with all appurtenances, additions, alterations, improvements, and replacements~~,~~ and the approaches ~~thereto~~ to the bridge, lands used ~~therefor~~ in connection with the bridge, and improvements ~~thereon~~ incidental or integral to the bridge.

(3) "Commission" means the ~~highway~~ transportation commission provided for in 2-15-2502.

(4) "Condemnation" means taking by exercise of the right of eminent domain.

(5) "Construction" means supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, mapping, and costs of right-of-way or other interests in land and elimination of hazards at railway grade crossings.

(6) "Control of access" means the condition in which the right of owners or occupants of abutting land or other persons to access, light, air, or view in connection with a highway is fully or partially controlled by public authority.

(7) "County road" means any public highway opened, established, constructed, maintained, abandoned, or discontinued by a county in accordance with Title 7, chapter 14.

(8) "Department" means the department of transportation provided for in Title 2, chapter 15, part 25.

(9) "Director" means the director of transportation, a position provided for in 2-15-2501.

(10) "Easement" means a right acquired by public authority to use or control property for a designated purpose.

(11) "Eminent domain" means the right of the state to take private property for public use.

(12) "Federal-aid highway" means ~~any~~ a public highway ~~which~~ that is a portion of any of the federal-aid highway systems.

(13) "Federal-aid highway systems" means all of the systems named ~~hereafter~~ as part of the systems and their urban extensions.

(14) "Federal-aid interstate system" means that system of public highways selected by the commission in cooperation with adjoining states, subject to the approval of the secretary of commerce, as provided in Title 23, U.S.C.

(15) "Federal-aid primary system" means that system of connected public highways designated by the commission, subject to the approval of the secretary of commerce, as provided in Title 23, U.S.C.

(16) "Federal-aid secondary system" means that system of public highways not in the federal-aid

primary or interstate systems selected by the commission in cooperation with the boards of county commissioners, subject to the approval of the secretary of commerce, as provided in Title 23, U.S.C.

(17) "Fee simple" means an absolute estate or ownership in property, including unlimited power of alienation.

(18) "Highway" includes rights-of-way or other interests in land, embankments, retaining walls, culverts, sluices, drainage structures, bridges, railroad-highway crossings, tunnels, signs, guardrails, and protective structures.

(19) "Highway", "road", and "street", whether ~~they~~ the terms appear together or separately or are preceded by the adjective "public", are general terms denoting a public way for purposes of vehicular travel and include the entire area within the right-of-way.

(20) "Highway authority" means the entity at any level of government authorized by law to construct and maintain highways.

(21) "Maintenance" means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and ~~such~~ traffic-control devices ~~as~~ that are necessary for ~~its~~ the safe and efficient ~~utilization~~ use of the highway.

(22) "Public highways" means all streets, roads, highways, bridges, and related structures ~~which have been or shall be~~:

(a) built and maintained with appropriated funds of the United States or the state or any political subdivision ~~thereof~~ of the state;

(b) dedicated to public use;

(c) acquired by eminent domain; or

(d) acquired by adverse use by the public, jurisdiction having been assumed by the state or any political subdivision ~~thereof~~ of the state.

(23) "Right-of-way" is a general term denoting land, property, or any interest ~~therein~~ in land or property, usually in a strip, acquired for or devoted to highway purposes.

(24) "State highway" means any public highway planned, laid out, altered, constructed, reconstructed, improved, repaired, maintained, or abandoned by the department."

Section 3. Section 60-2-110, MCA, is amended to read:

"**60-2-110. Setting priorities and selecting projects.** (1) The commission shall establish priorities

and select and designate segments for construction and reconstruction on the national highway system, the primary highway system, the secondary highway system, the urban highway system, and state highways.

(2) The commission shall consult with the board of county commissioners of the county in which a highway is located when establishing priorities and when selecting and designating segments on the secondary highway system for construction and reconstruction.

(3) The commission shall consult with the appropriate local government authorities when establishing priorities and selecting and designating segments on the urban highway system for construction and reconstruction.

(4) The commission shall use information gathered or discovered by and documents prepared by the department, and department officials and employees shall provide assistance and advice.

(5) The commission shall establish and determine priorities and projects for rail and transit programs and, to the extent possible, coordinate intermodal transportation within the state.

(6) In carrying out the requirements of this section, the department shall:

(a) make recommendations to the commission; ~~and~~

(b) establish~~, by rule,~~ the requirements and procedures for administering this section; AND

(C) TAKE ALL REASONABLE STEPS TO ENSURE THE INTEGRITY AND VIABILITY OF AGRICULTURAL AND RURAL TRANSPORTATION AND RELATED NEEDS."

Section 4. Section 60-2-129, MCA, is amended to read:

"**60-2-129. Allocation of funds.** (1) The commission may allocate federal-aid highway funds for projects or programs in which all or a portion of the work is on highways that are not located on the highway systems defined in 60-2-125. The allocations must be made without regard to the financial district in which the project or program is located.

(2) Within the programs under its jurisdiction, the commission shall allocate all federal transit administration funds, freight assistance funds, or any funds or grants available by legislative appropriation for the study, design, construction, repair, or improvement of rail or transit intermodal transportation systems.

(3) The commission may authorize the transfer of FEDERAL funds between qualified programs, including highway and transit programs.

(4) The commission may delegate the functions and responsibilities under this section to the department."

Section 5. Section 60-3-219, MCA, is amended to read:

"**60-3-219. Allocation of funds -- apportionment.** The federal-aid highway funds allocated to the primary highway system for construction purposes must be apportioned among the five financial districts, corresponding to and congruent with the ~~highway~~ transportation commission districts established in 2-15-2502."

NEW SECTION. **Section 6. Codification instruction.** (1) The code commissioner is instructed to change any reference to the highway commission to the transportation commission in legislation enacted by the 54th legislature.

(2) The code commissioner is instructed to change to the transportation commission each reference to the highway commission in the Montana Code Annotated.

NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 1995.

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